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04/238,950

APPLICATION NO. 09/238,950	FILING DATE 01/27/99	FIRST NAMED INVENTOR BREDA W	ATTORNEY DOCKET NO. 189334
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LEYDIG VOIT & MAYER
TWO PRUDENTIAL PLAZA
SUITE 4900
CHICAGO IL 60601-6780

PM82/1027

EXAMINER WOOD, K

ART UNIT 3632	PAPER NUMBER 14
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DATE MAILED: 10/27/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/238,950

Applicant(s)
Breda et al.

Examiner
Kimberly Wood

Group Art Unit
3632



☒ Responsive to communication(s) filed on Aug 7, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1035 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-22 and 31 is/are pending in the application

Of the above, claim(s) 7-13 is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-6, 14-18, 20-22, and 31 is/are rejected.

☒ Claim(s) 19 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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This is the fourth office action for serial number 09/238,950, entitled Intravenous Equipment Hangers, in response to Amendment A filed on March 3, 2000 and Amendment B filed on March 20, 2000.

Response to Amendment

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Allowable Subject Matter

The indicated allowability of claims 16-22 are withdrawn in view of the newly discovered reference(s) to Hastings. Rejections based on the newly cited reference(s) follow.

Election/Restriction

Claims 7-13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 6.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the **openings** must be shown within

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the **drawings (figure 10) elected by the applicant** or the feature(s) canceled from the claim(s).

No new matter should be entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 14, 15, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Foley 3,048,360. Foley discloses an intravenous infusion equipment hanger assembly including a partition (14), a mounting member (22,32 &42) defining a vertical first plane (defined by 22 and 32) and **including** a plate 32; a detachably mounted hanger (26,30,31, and 80) having an elongate pole (26 & 80) with multiple telescopically engaged sections (26 & 80) and engagement elements 31; an offset support 24 having a flange leg 28; wherein the pole (26 &80) is spaced from said mounting member (22, 32, and 42).

Claims 1-5, 14, 15-18, 20, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Hastings 354,903. Hastings discloses a hanger assembly (figures 1 and 2) comprising at least one mounting member (A or a) including a flat portion, means for attachment (see the holes in the mounting member (a) which holds fasteners), a hanger (B) including a pole

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and engaging elements (the hooks at the end of the pole), a plurality of offset supports (b and b') including flange legs, and said mounting member defines mounting pockets (a, a 1, a2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hastings 354,903. Hastings discloses all of the limitations of the claimed invention except for the partition. Partition by definition is merely "an interior dividing wall". Hastings teaches that the hanger assembly (Figures 1 and 2) is attached to a wall. It would have been obvious for one having ordinary skill in the art to have attached the hanger assembly to a partition since, the reference provides the motivation for attaching the hanger assembly to a wall which is equivalent to a partition.

Allowable Subject Matter

Claim 19 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Response to Arguments

Applicant's arguments with respect to claims 1-5, 14, 15-18, 20, and 21 have been considered but are moot in view of the new ground(s) of rejection.

Drawings

The applicant indicated that drawings were attached to Amendment C filed on August 7, 2000. The examiner did not receive any drawing corrections therefore, the rejection to the drawings stand.

Arguments regarding the positioning of the hanger relative to the partition regarding the claims Foley clearly teaches that the hanger can be positioned vertically or horizontally relative to partition to which it is attached therefore, meeting the limitations of the positively claimed invention of the applicant.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., partition) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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895,042 Rogers

1,669,782 Risser

1,713,685 Austin

3,178,144 Kimoto

3,454,275 Pontone

3,664,626 Sneller

4,159,773 Losenno

4,913,297 Wells

All of the above patents disclose hangers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly Wood whose telephone number is (703) 308-0539. The examiner can normally be reached on Monday-Thursday from 7:30 AM to 5:00 PM. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2168. The fax number for this Group is (703) 305-3597.



Kimberly Wood
October 25, 2000